

REMARKS

Claims 22-27, 36-41 and 49-52 were pending in the application. Claims 36-41, 51 and 52 are cancelled in this Amendment.

Initially, Applicants appreciate the allowance of claims 22-27, 49 and 50, noting the Examiner's agreement with Applicants' arguments made in the Amendment of July 15, 2008, with respect to Brizzolara, Kozam and Firth.

Claims 36-41, 51 and 52 were rejected in the Office Action mailed on October 2, 2008. Applicants respectfully disagree with the positions taken in the Office Action mailed on October 2, 2008, with respect to Egolf (US 4,909,788) or Stefaniak (US 5,004,124) under 35 U.S.C. 102(b), or with respect to Stefaniak in view of Egolf and/or Frush (US 5,244,388) under 35 U.S.C. 103(a).

The Office Action claims that Egolf discloses an apparatus comprising a barrel (12) and tube portion (24), where the tube portion includes a tip (28) capable of being deformed to a different cross-section. In fact, Egolf discloses a syringe including, in part, a cylindrical body (12), i.e. a barrel, having a short, diametrically small, slightly conical nozzle section (24) integrally mounted to conical end (16) of body (12). The nozzle is for engagement by the connecting end of the socket of an elongated hypodermic needle (28). As such, Applicants respectfully submit that the nozzle section fails to include a tip configured for being deformed to at least one cross-sectional geometry different from its initial cross-sectional geometry. Furthermore, to the extent the Office Action maintains that the needle is interpreted as the tip, Applicants would submit that the needle is incapable of being deformed as required by the claim without rendering it useless for injecting fluids.

Additionally, Applicants would submit that plunger 18 in Egolf is, in fact, equivalent to the external contacting member disclosed in Applicants' invention. As such, the body would not include a plunger configured for contacting a portion of an external force applying member, as the plunger of Egolf cannot satisfy both elements.

With respect to Stefaniak, it is claimed that Stefaniak discloses an apparatus comprising a barrel and tip portion 34, where the tip portion is capable of being deformed. There is no disclosure in Stefaniak that the tip portion is deformable and it would appear that the tip, in fact, is not deformable. Furthermore, the claims require that the tip is configured for being

deformed to at least one cross-sectional geometry different from its initial cross-sectional geometry, not merely “deformed”.

As with Egolf, the plunger of Stefaniak is equivalent to the external contacting member disclosed in Applicants’ invention. As such, the body would not include a plunger configured for contacting a portion of an external force applying member, as the plunger in Stefaniak cannot satisfy both elements.

Frush discloses an apparatus for applying dental impression material to the surface of teeth. As with Egolf and Stefaniak, Frush fails to disclose or suggest a barrel having a tube portion with a tip configured for being deformed to at least one cross-sectional geometry different from its initial cross-sectional geometry, or a plunger configured for contacting a portion of an external force applying member.

Based on the foregoing, Applicants would submit that claims 36-41, 51 and 52 are patentable over Egolf, Stefaniak or Frush, alone or in combination. Having said that, in the interest of expediting prosecution and allowance of claims 22-27, 49 and 50, Applicants have elected to cancel claims 36-41, 51 and 52 in this Amendment, without prejudice to the presentation of such claims in a continuing application, which application is being filed simultaneously herewith.

In view of the Amendment, Applicants respectfully request a Notice of Allowance as to claims 22-27, 49 and 50.

Respectfully submitted,

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